

Traffic Control Process Committee Meeting

March 26, 2002

The meeting began at 9:00 a.m. at the MDT headquarters building. An attendance list is attached.

Mark Wissinger began the meeting by explaining the department's recent traffic control rate schedule changes. Mark referenced a letter Mr. Cary Hegreburg asked Mark to write to Robert Warren of Schellinger Construction to explain why the rate schedule was changed.

The letter explains that the rate schedule was changed in response to unbalanced bidding of items on the schedule of items, namely the flagging and pilot car items. It goes on to explain that when contractors find quantity errors in bid packages, that by specification, the bidders are to notify the department so the error can be corrected before the letting date. The specifications state that a bidder is not to take advantage of an obvious error or omission.

Mark then gave an estimate of the size of the upcoming highway program and how materially unbalanced bids jeopardize federal aid participation, as the Code of Federal Regulations prohibits FHWA participation in materially unbalanced bids. When federal aid is lost, it has to be replaced with state funds that are in short supply and cannot be used to leverage federal funds. Jim Walther and Mark Wissinger emphasized that loss of Federal-Aid participation would dramatically reduce the overall program size, damaging the highway construction industry, both private and public.

Mark mentioned that FHWA has agreed to permit addenda as late as 48 hours before the letting to help make corrections before the letting. MCA members explained that they might not be aware of traffic control errors until 24 hours before the letting because of current bidding practices. Mark emphasized the efforts MDT has made to make information more readily available sooner in the project development process, so that contractors could make comments and have a better basis for submitting bids. MDT feels that the contracting community should commit to more timely examination of bid documents.

MDT explained what material and mathematical unbalanced bids are and how the department analyzes bids for possible material unbalancing. These analysis methods are not new, but are becoming more sophisticated. Jim Walther explained that these tools could also be used to "Red Flag" bids, resulting in a warning to bidders if bid prices fall too far outside the norms.

Meredith Reiter (transportation commission member) mentioned that most of the traffic control bid problems would go away if the department could get its estimates to within ten percent of actual costs.

In response department staff explained that it's hard to estimate traffic control quantities accurately not knowing the successful bidders production capabilities and scheduling sequence.

The department has developed a traffic control estimating system that is tracking traffic control use and, as it gathers more information, will become more useful in estimating traffic control quantities for projects.

A list of short-term department decisions was discussed next.

Should the districts continue to be the sole source to estimate traffic control?

This had limited discussion but the sense was that districts should be involved in estimates.

Should traffic control estimates be centralized within a Helena bureau?

This had limited discussion but the sense was that headquarters should provide support, such as the estimate system, to the districts.

Should the department start rejecting bid's unbalanced on traffic control items regardless of how close bid quantities are to those actually used?

All mathematically unbalanced bids will continue to be examined. If a bid is determined to be materially unbalanced it will be rejected.

Should the MDT use flex start dates more on projects and reduce the contract time?

Contractors like the flex start dates as it aids their scheduling of work and may serve the departments interests as well. MDT is receptive to the flex start concept in general, and will be used on Federal-Aid projects in the near future to help expedite construction of State funded contracts.

Should the department use more A+B bidding, lane rental, and other specialty type bid practices to control time and traffic control.

Establishing road user costs and identifying what projects would have sufficient road user costs to apply them, was discussed. Most Montana projects don't have the ADT to make road user costs significant enough to consider.

Lane rental was discussed and how it might be applied. Colorado estimates how much time lanes on a project should be closed for the work; places a bid item that banks the time (lane rental hours) and the contractor draws on the account during the work. The lane rental hours have a dollar amount, based on road user costs, associated with them. Should the lane rental hour balance drop below zero, the contractor pays for the lane rental.

MDT staff asked the contractor representatives how the new rate schedule is working in general. The contractors thought that "generally", the rates were reasonable but that some units need adjusting.

One contractor stated that under the "contractor bids traffic control specification", where the unit price defaults to 80 cents or the bid price, whichever is less, and the traffic control overruns poses problems when the contractor's actual cost is at 95 cents. Contractors will move the price difference somewhere else in the bid.

Long Term Traffic Control Actions

Alternates to our current traffic control payment methods were discussed next.

Jim Walther suggested that contractors bid the quantities and price. One contractor viewed that as effectively a lump sum bid.

Another suggestion was to delete the existing default price language that makes the price 80 cents, or the unit bid price, whichever is less when the quantity overruns. MDT believes that dropping this removes contractor incentive to use traffic control efficiently.

It was agreed to increase the percentage to 115% of plan quantity before the price became fixed.

The next issue was how to adjust lump sum traffic control bids when the contract is modified and requires more traffic control or, when the contract is delayed outside the contractors control and the original traffic control bid could not have foreseen the delay. Contractors mentioned one method employed by the districts, which was to use a percentage of the lump sum price.

One suggestion was to have the contractor furnish an item list with prices with their bid, to be used should the project require more traffic control.

Another suggestion was to default to the traffic control rate schedule.

Delays where the department would pay for traffic control will have to be well defined to ensure uniform contract administration.

Jeff Hollenback offered to prepare a draft specification to address adjusting lump sum traffic control bids. Mark Baum offered to assist.

Long Term Traffic Control Actions

Resuming after lunch, Jim Walther again offered his contractor bidding both the traffic control quantity and price with further explanation. Jim explained that, under his scenario, the contractor bids both quantity and price. Should the quantity begin to overrun the bid quantity, the price paid for the devices would follow a declining scale. A given amount of overrun would see no price decrease; beyond that amount of overrun, based on the percent overrun, the price would be reduced to remove profit first, followed by further price reduction that would place the contractor in the position of paying for the devices being used.

The concept, in principle, was agreeable to the committee. The sliding scale would have to be defined and agreed to. Stephan Streeter and Jim Walther will produce a rough draft of this proposed method.

One contractor expressed concern that this would lead to prime contractors furnishing their own traffic control rather than employing a traffic control subcontractor. One such instance was cited. Prime contractor representatives thought the risk of that occurring would be low. They have enough to do without adding traffic control to the list. It was mentioned that with the expanding construction program this risk would likely be reduced.

Mark Wissinger emphasized that the department is looking to develop a menu of ways to pay for traffic control rather than a “one size fits all” approach. Different project size, complexity, and nature warrant different pay methods for traffic control.

Long Term Traffic Control Actions

Developing alternate methods of measuring and payment for traffic control was discussed next based on the handout. Some previous suggestions fit into this category.

Lump Sum with daily maintenance payment.

Lump Sum with a rate schedule for items not anticipated but ordered by the Engineer.

Daily Payment

Daily Payment with rate schedule for items ordered.

Contractor bids both unit price and quantity in the above scenarios, or in conjunction with current rate schedule.

Payment for Lump Sum traffic control was discussed next. MDT staff asked how contractors were receiving payment for lump sum traffic control now. It appeared the most common method was to apply a percentage as the contract progressed. The next question was how should the percentages be paid out over the contract. One suggestion was to make payment at a rate akin to the mobilization schedule. Mark Wissinger will prepare a rough draft for a proposed payment schedule based on percentages similar to the mobilization item.

One concern expressed was that the department did not want to “front end load” the percentages too much, risking paying for traffic control not yet used. It was suggested that whatever the final scale, the Project Manager should be given some latitude in adjusting the scale to ensure payment represents what’s being used.

MDT staff mentioned that the department and FHWA are going to conduct a process review on contract time. The outcome will have great impact on traffic control. It was suggested that having an MCA member involved would be beneficial.

MDT raised a concern and asked the contractors for their comments. During the winter shutdown period a few contractors elect to continue working. This is typically a period of low productivity and the department is paying the full cost of traffic control. The response from the contracting community in general was that there are occasions where the department directing the contractor to “go home” is often in its best interest. Production can get to a point that it is not cost beneficial to the contractor.

The comment was made that the public may receive some benefit from winter operations in terms of the project completing earlier, and not impacting higher summer traffic volumes.

One suggestion to be followed up on is a floating pay scale for traffic control based on daily productivity. The contractor would provide a work schedule and be expected to meet some level of production shown on the schedule or face reduced pay for the traffic control.

Summary

The following is a list of actions to be taken:

Jeff Hollenback and Mark Baum will prepare a draft specification to address adjusting lump sum traffic control bids when unanticipated events impact the project.

It was agreed to increase the percentage to 115% of plan before the price became fixed at \$0.80 on bid device units. Mark Wissinger will make this change.

Mark Wissinger will prepare a rough draft for a proposed payment schedule based on percentages similar to the mobilization item for Lump Sum traffic control.

Stephan Streeter and Jim Walther will produce a rough draft of the unit and quantity bid method.

The committee will continue to monitor concerns and considerations brought forth previously to determine if recent changes have helped to correct.

No further rate schedule changes will be made until such time as future projects indicate a need for adjustment. Any changes will be discussed with this committee prior to implementation.